

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sruthi Venigalla	Team: Squad #13	CCRB Case #: 201507362	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/30/2015 7:53 PM	Location of Incident: § 87(2)(b)	Precinct: 88	18 Mo. SOL 2/28/2017	EO SOL 2/28/2017	
Date/Time CV Reported Mon, 08/31/2015 12:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 08/31/2015 12:53 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Edward Bowe	01720	918773	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Bernard Barrow	08956	923537	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Edward Bowe	Abuse: Sgt. Edward Bowe supervised the entry of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.SGT Edward Bowe	Abuse: Sgt. Edward Bowe detained § 87(2)(b) at § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Edward Bowe	Abuse: Sgt. Edward Bowe issued an improper summons to § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint online, via the Civilian Complaint Review Board's (CCRB) website. She appeared at the CCRB on September 16, 2015, and provided a statement which is summarized below. § 87(2)(b) declined mediation as an alternative to resolve her complaint.

On August 30, 2015, at approximately 7:53 p.m., § 87(2)(b) was alone in her residence on the § 87(2)(b) of a residential building at § 87(2)(b) Brooklyn, when she heard her intercom. She answered and asked twice, who it was before the callers identified themselves as "Police." § 87(2)(b) then walked down a flight of stairs, opened a door, one that is normally locked, into a small foyer with an intercom. § 87(2)(b) then opened another door approximately 16 inches wide, one that is normally unlocked, out into the street where two uniformed officers were standing.

§ 87(2)(b) asked, "Yes? May I help you?" An officer, identified as Sgt. Edward Bowe of the 88th Precinct, whose nameplate § 87(2)(b) read and described as a black man who was 5'9" tall, 250 pounds, with a shaved bald head, and who appeared to be in his mid-forties, asked § 87(2)(b) "We're here to see § 87(2)(b)." During her interview, § 87(2)(b) identified § 87(2)(b) as her cousin who lives on the § 87(2)(b) floor of the same building. § 87(2)(b) informed Sgt. Bowe that he rang the wrong bell, and that no one was home. Sgt. Bowe asked, "Are you the owner of the building?" to which § 87(2)(b) replied, "No I'm not the owner, my uncle is." Sgt. Bowe replied, "Well we're going to come in." § 87(2)(b) replied, "No you're not going to come in. I didn't invite you in. You can't come in." Sgt. Bowe again said, "No we're coming in," to which § 87(2)(b) said, "I'm in law enforcement and I know you can't come in because I didn't invite you in." § 87(2)(b)

§ 87(2)(b) Sgt. Bowe said, "Well then you should know better," before another officer who had been standing outside, "charged in" such that § 87(2)(b) took several steps backwards and almost fell. § 87(2)(b) identified this officer as PO Bernard Barrow of the 88th Precinct based on his nameplate. She described PO Barrow as a black man with a West Indian accent, who is 6'1" tall, with glasses, salt and pepper hair, and whose uniform has a plate with "XV" on it. According to § 87(2)(b) this signifies 15 years of service.

When both were inside, Sgt. Bowe held her against the wall next to the intercom and handcuffed her while PO Barrow went up the stairs, past § 87(2)(b)'s apartment and to the third floor (**Allegations A and B**). A few minutes later, PO Barrow came back downstairs and informed Sgt. Bowe that no one had answered. § 87(2)(b) then informed Sgt. Bowe that her handcuffs were too tight, to which Sgt. Bowe responded, "They were not made for comfort." Sgt. Bowe then directed PO Barrow to obtain § 87(2)(b)'s ID. However, Sgt. Bowe asked for her ID and § 87(2)(b) replied, "Why would I have my ID if I'm in my own house?" PO Barrow then asked her for her name, date of birth and telephone number before stepping out into the street. A few minutes later, he stepped back in and told Sgt. Bowe, "She is fine." § 87(2)(b) assumed that PO Barrow had conducted a warrant check. Sgt. Bowe then asked PO Barrow if he had any "Cs," which § 87(2)(b) understood as criminal summonses, before both officers stepped out and § 87(2)(b) remained handcuffed in the space next to the intercom.

Approximately seven minutes later, both officers stepped back inside. § 87(2)(b) was issued summons number § 87(2)(b) by PO Barrow for disorderly conduct – creating hazardous conditions. (See Board Review 27). § 87(2)(b) stated that the handcuffs exacerbated pain from a previously existing condition. PO Barrow then uncuffed § 87(2)(b) and left with Sgt. Bowe.

Mediation, Civil and Criminal Histories

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- The undersigned submitted a FOIL request to verify if [§ 87(2)(b)] filed a notice of claim regarding this incident, and include the response in the case file upon receipt.

Civilian and Officer CCRB Histories

- [§ 87(2)(b)] has not filed any previous complaints with the CCRB.
- Sgt. Edward Bowe has been a member of the NYPD for 18 years. He has had 11 allegations involving five other cases, none of which have been substantiated. [§ 87(2)(g)]
- PO Bernard Barrow has been a member of the NYPD for 16 years. He has had four other allegations involving three cases, none of which have been substantiated. [§ 87(2)(g)]

Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Edward Bowe supervised the entry of [§ 87(2)(b)] in Brooklyn.

Allegation B – Abuse of Authority: Sgt. Edward Bowe detained [§ 87(2)(b)] at [§ 87(2)(b)] in Brooklyn.

Allegation C – Abuse of Authority: Sgt. Edward Bowe issued an improper summons to [§ 87(2)(b)]

The desk sergeant at the 88th Precinct called Sgt. Bowe and stated that a black female [§ 87(2)(b)], named [§ 87(2)(b)] was missing and had previously been seen at the apartment on more than one occasion. There were open complaint reports for the man who lived at the apartment as he was wanted for questioning in relation to [§ 87(2)(b)] and the man's address was listed on the complaint reports. [§ 87(2)(b)]

[§ 87(2)(b)] The desk sergeant conveyed no further information but requested that they conduct a canvass of the man's known residence, which was on the [§ 87(2)(b)] floor of [§ 87(2)(b)]. [§ 87(2)(b)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

When Sgt. Bowe and PO Barrow arrived at the apartment building, they opened the front door and entered a four-by-six-foot space that led to a second door which was locked. Within the space, there was a panel of four buzzers for each of the apartments. The officers pressed each of the buzzers and a woman, identified by the investigation as [§ 87(2)(b)] answered the second buzzer. They informed [§ 87(2)(b)] that they wanted to speak to [§ 87(2)(b)] at his apartment, and when asked if she knew him, she replied that she did.

[§ 87(2)(g)], it is undisputed that the officers entered [§ 87(2)(b)]'s apartment building. According to both Sgt. Bowe and PO

Barrow, § 87(2)(b) had verbally denied them permission to enter any further into the building, and then attempted to physically prevent PO Barrow from entering any further by standing in front of the stairwell leading to the upper floors of the apartment and holding her arms out at her sides. PO Barrow stated that when § 87(2)(b)'s arms remained out at her sides, he grabbed her left arm, pushed it down, and walked past her toward the stairs. According to Sgt. Bowe, she attempted to reach out towards PO Barrow when both officers moved her toward a wall and handcuffed her. § 87(2)(b) did not resist being handcuffed and she did not say anything. While Sgt. Bowe stayed with § 87(2)(b) PO Barrow went upstairs. (See Board Review 31 and 32).

Warrantless entries into private homes are presumed unconstitutional. Exceptions to this rule include consent, hot pursuit and exigent circumstances. As established in People v. McBride, 14 N.Y.3d 440 (2010), exigent circumstances are based on a factors balancing test and the factors are: the gravity and violent nature of the crime with which the suspect is to be charged; whether the suspect is reasonably believed to be armed; probable cause that the suspect committed a crime; strong reason to believe that the suspect is in the premises being entered; a likelihood that the suspect will escape if not swiftly apprehended; and peaceful circumstances of the entry.

§ 87(2)(g)

The count of disorderly conduct in this case alleges a violation of NYS Penal Law §240.20(7), which makes it unlawful for a person, with the requisite mental state, to “create a hazardous or physically offensive condition by any act which serves no legitimate purpose” in a public space. (quoted in People v. Square, 872 N.Y.S.2d 693 (2008).) This violation requires a mens rea component of an intent to create a hazardous or physically offensive condition. Therefore, disorderly conduct occurs only when the situation extends beyond the individual disputants to a point where it becomes a potential or immediate public problem. People v. Baker, 20 N.Y.3d 354 (2013).

§ 87(2)(g)

Absent probable cause to place someone under arrest for committing a crime, the courts have recognized two exceptions under which an officer can place an individual in handcuffs. The first exception is to ensure police officer safety, and the second exception is to briefly detain a suspect pending confirmatory identification. People v. Ortiz, 808 N.Y.S.2d 919 (2005).

§ 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

Squad:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date